

JUN 11 1998

No. 97-1396

OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES  
 OCTOBER TERM, 1997

VICKY M. LOPEZ, CRESCENCIO PADILLA,  
 WILLIAM A. MELENDEZ, and DAVID SERENA,  
*Appellants,*

v.  
 MONTEREY COUNTY, CALIFORNIA,  
 STATE OF CALIFORNIA, *Appellees,*  
 and  
 WENDY DUFFY, *Intervenor-Appellee*

ON APPEAL FROM THE UNITED STATES DISTRICT  
 COURT FOR THE NORTHERN DISTRICT  
 OF CALIFORNIA

JOINT APPENDIX

Joaquin G. Avila*	Douglas C. Holland*	Daniel G. Stone*
Voting Rights Atty.	Mont. County Coun.	Dep. Atty. Gen.
Parktown Off. Bldg.	240 Church St.,	State of California
1774 Clear Lake Ave.	Room 214	1300 I St., Ste. 1101
Milpitas, CA 95035	Salinas, CA 93901	P.O. Box 944255
Ph: (408) 263-1317	Ph: (408) 755-5045	Sacramento, CA
Counsel for	Counsel for Appellee	94244-2550
Appellants	Monterey County, CA	Ph: (916) 324-2550
		Counsel for Appellee
		State of California

Marguerite M. Leoni\*  
 Nielsen, Merskamer, Parrinello, Mueller & Naylor  
 591 Redwood Highway, #4000  
 Mill Valley, CA 94941  
 Ph: (415) 389-6800  
 Counsel for Intervenor-Appellee  
 Stephen A. Sillman  
 \*Counsel of Record

Appeal Docketed February 25, 1998  
 Probable Jurisdiction Noted April 27, 1998

## Table of Contents

1. Table of Contents<sup>1</sup> ..... i
2. List of Relevant Docket Entries . . Joint Appendix - 1
3. 1972 Judicial Council Survey of Monterey County Judicial Districts (Docket Entry No. 30, Ex. A, pp. 55-80.) (10/9/92) ..... Defendant's Motion to Affirm Appendix - 1
4. Table 5, 1991 Annual Report of Judicial Council to the Governor and the Legislature, p. 104 (Docket Entry 27, Ex. 1, p. 3.) (10/9/92) ..... Defendant's Motion to Affirm Appendix - 27
5. Plaintiffs' First Amended Complaint (Docket Entry No. 208) (10/24/96). .... Appellants' Jurisdictional Statement Appendix - 83
6. Defendant Monterey County's Answer to First Amended Complaint (Docket Entry No. 214) (11/26/96) .... Defendant's Motion to Affirm Appendix - 28
7. Declaration of George Schneider, Acting Deputy Chief Voting Rights Section, Civil Rights Division United States Department of Justice (Docket Entry No. 284) (12/16/97). .... Appellants' Jurisdictional Statement Appendix - 105

---

<sup>1</sup> For the convenience of the Court and for purposes of quick reference, the titles of any federal statutes, state statutes, and county ordinances are included in a separate section at the end of this Table of Contents.

8. Order Granting (1) Motion to Dismiss First Amended Complaint; and (2) Motion to Vacate Order Extending Judicial Terms filed by the United States District Court for the Northern District of California on December 19, 1997 (Docket Entry No. 286) (12/19/97). . . . . Appellants' Jurisdictional Statement Appendix - 1
9. Judgment of Dismissal entered by the District Court on December 22, 1997 (Docket Entry No. 287) (12/19/97) . . . Appellants' Jurisdictional Statement Appendix - 11
10. December 24, 1997, Notice of Appeal (Docket Entry No. 288) (12/24/97). . . . . Appellants' Jurisdictional Statement Appendix - 13
11. Proposition 220: Excerpts from Official Ballot Pamphlet for June 2, 1998 Primary Election (pp. 8, 9, 65-67.)<sup>2</sup> . . . . . Defendant's Motion to Affirm Appendix - 37

Federal Statutes

42 U.S.C. 1973c. . . . .  
... Appellants' Jurisdictional Statement Appendix - 16

California Statutes

- a. Cal. Gov. § 73562 (West Supp. 1998)\*. . . . .  
Appellants' Jurisdictional Statement Appendix - 18
- b. Cal. Gov. § 25200 (West 1988)\*. . . . .  
Appellants' Jurisdictional Statement Appendix -19

<sup>2</sup> This document is not in the record, but is included for the convenience of the Court.

\* The text of the statute is not part of the record, but the full text is included in the Appendix to the Jurisdictional Statement.

- c. Cal. Gov. § 71040 (West 1997)\* . . . . .  
Appellants' Jurisdictional Statement Appendix - 20
- d. 1951 Cal. Stat. c.1476, § 1\* . . . . .  
Appellants' Jurisdictional Statement Appendix - 21
- e. 1953 Cal. Stat. c.206, § 1\* . . . . .  
Appellants' Jurisdictional Statement Appendix - 22
- f. 1957 Cal. Stat. c.908, § 1\* . . . . .  
Appellants' Jurisdictional Statement Appendix - 24
- g. 1959 Cal. Stat. c.1344, § 1\* . . . . .  
Appellants' Jurisdictional Statement Appendix - 25
- h. 1972 Cal. Stat. c.944, § 1\* . . . . .  
Appellants' Jurisdictional Statement Appendix - 26
- i. 1974 Cal. Stat. c.1312, § 1\* . . . . .  
Appellants' Jurisdictional Statement Appendix - 27
- j. 1975 Cal. Stat. c.966, § 2 (Attached to Docket Entry No. 27)(10/9/92) . . . . .  
Appellants' Jurisdictional Statement Appendix - 28
- k. 1977 Cal. Stat. c.995, § 2 (Attached to Docket Entry No. 27) (10/9/92) . . . . .  
Appellants' Jurisdictional Statement Appendix - 30
- l. 1979 Cal. Stat. c.694, § 2 (Attached to Docket Entry No. 27) (10/9/92) . . . . .  
Appellants' Jurisdictional Statement Appendix - 32

- m. 1983 Cal. Stat. c.1249, § 3 (Attached to Docket Entry No. 27) (10/9/92) ....  
Appellants' Jurisdictional Statement Appendix - 34
- n. 1985 Cal. Stat. c.659, § 1 (Attached to Docket Entry No. 27) (10/9/92) ....  
Appellants' Jurisdictional Statement Appendix - 36
- o. 1987 Cal. Stat. c.1211, § 30\* ....  
Appellants' Jurisdictional Statement Appendix - 38
- p. 1989 Cal. Stat. c.608, § 2\* ....  
Appellants' Jurisdictional Statement Appendix - 40
- q. 1993 Cal. Stat. c.1091, § 38\* ....  
Appellants' Jurisdictional Statement Appendix - 41

County Ordinances

- a. 1347 (Described in Docket Entry No. 208) (10/24/96) (Attached to Docket Entry No. 24 & 25) (10/9/92) ....  
Appellants' Jurisdictional Statement Appendix -44
- b. 1597 (Described in Docket Entry No. 208) (10/24/96)\*\* ....  
Appellants' Jurisdictional Statement Appendix - 48
- c. 1654 (Described in Docket Entry No. 208) (10/24/96)\*\* ....  
Appellants' Jurisdictional Statement Appendix - 50
- d. 1852 (Described in Docket Entry No. 208) (10/24/96) (Attached to Docket Entry No. 27) (10/9/92). ....

\*\* The text of the ordinance is not part of the record, but the text is included in the Appendix to the Jurisdictional Statement.

- Appellants' Jurisdictional Statement Appendix - 53
- e. 1917 (Described in Docket Entry No. 208) (10/24/96) (Attached to Docket Entry No. 27) (10/9/92) ....  
Appellants' Jurisdictional Statement Appendix - 56
- f. 1999 (Described in Docket Entry No. 208) (10/24/96) (Attached to Docket Entry No. 27) (10/9/92) ....  
Appellants' Jurisdictional Statement Appendix - 58
- g. 2138 (Described in Docket Entry No. 208) (10/24/96)\*\* ....  
- Appellants' Jurisdictional Statement Appendix - 60
- h. 2139 (Described in Docket Entry No. 208) (10/24/96) (Attached to Docket Entry No. 27) (10/9/92) ....  
Appellants' Jurisdictional Statement Appendix - 62
- i. 2195 (Described in Docket Entry No. 208) (10/24/96)\*\* ....  
Appellants' Jurisdictional Statement Appendix - 65
- j. 2212 (Described in Docket Entry No. 208) (10/24/96)\*\* ....  
Appellants' Jurisdictional Statement Appendix - 68
- k. 2227 (Described in Docket Entry No. 208) (10/24/96)\*\* ....  
Appellants' Jurisdictional Statement Appendix - 71
- l. 2524 (Described in Docket Entry No. 208) (10/24/96) Attached to Docket Entry No. 27) (10/9/92). ....  
Appellants' Jurisdictional Statement Appendix - 74

m. 2930 (Described in Docket Entry No. 208)  
 (10/24/96) Attached to Docket Entry No. 27)  
 (10/9/92). . . . .  
 Appellants' Jurisdictional Statement Appendix - 77

n. Resolution #88-597 (Described in Docket Entry  
 No. 208) (10/24/96)\*\*. . . . .  
 Appellants' Jurisdictional Statement Appendix - 81

Joint Appendix - 1

**Relevant Docket Entries for *Lopez, et al. v. Monterey County, et al.*, Supreme Court Docket No. 97-1396**

Date	Doc. No.	Description
5/31/96	193	"MOTION before Judge Ronald M. Whyte by Plaintiff David Serena to extend judicial terms [5:91-cv-20559] (cv) [Entry date 06/03/96]"
5/31/96	194	"MEMORANDUM by Plaintiff David Serena in support of motion to extend judicial terms [193-1] [5:91-cv-20559] (cv) [Entry date 06/03/96]"
5/31/96	195	"MOTION by Plaintiff David Serena to amend complaint [5:91-cv-20559] (cv) [Entry date 06/03/96]"
5/31/96	196	"MEMORANDUM by Plaintiff David Serena in support of motion to amend complaint [195-1] [5:91-cv-20559] (cv) [Entry date 06/03/96]"
7/26/96	197	"ORDER by Judge Ronald M. Whyte that the motion to amend complaint [195-1] is submitted: Opposition filed by 8/16/96 and reply filed by 8/23/96. (Date Entered: 07/31/96) (cc: all counsel) [5:91-cv-20559] (cv) [Entry date 07/31/96]"
8/15/96	200	"OPPOSITION by Intervenor-Defendant California, State of to motion to amend complaint [195-1], motion to extend judicial terms [193-1] [5:91-cv-20559] (cv)"

## Joint Appendix - 2

Relevant Docket Entries for <i>Lopez, et al. v. Monterey County, et al.</i> , Supreme Court Docket No. 97-1396		
Date	Doc. No.	Description
8/16/96	201	"NOTICE by Intervenor Stephen A. Sillman of non opposition to motion to amend [5:91-cv-20559] (cv) [Entry date 08/21/96]"
8/16/96	202	"NOTICE by Intervenor Stephen A. Sillman of non-opposition to motion to extend terms [5:91-cv-20559] (cv) [Entry date 08/21/96]"
8/23/96	203	"REPLY by Plaintiff David Serena re motion to amend complaint [195-1], re motion to extend judicial terms [193-1] [5:91-cv-20559] (cv)"
9/25/96	207	"ORDER by Judge Ronald M. Whyte granting motion to amend complaint [195-1] and extend Judges terms (Date Entered: 9/30/96) (cc: all counsel) [5:91-cv-20559] (cv) [Entry date 09/30/96]"
10/24/96	208	"AMENDED COMPLAINT (FIRST) [1-1] by Plaintiff David Serena, Plaintiff Jesse G. Sanchez, Plaintiff William A. Melendez, Plaintiff Crescencio Padilla, Plaintiff Vicky M. Lopez [5:91-cv-20559] (cv) [Entry date 10/25/96]"
10/30/96	209	"STIPULATION and ORDER by Judge Ronald M. Whyte: extending time to answer within 30 days to file responsive pleadings. (cc: all counsel) [5:91-cv-20559] (cv) [Entry date 11/01/96]"

## Joint Appendix - 3

Relevant Docket Entries for <i>Lopez, et al. v. Monterey County, et al.</i> , Supreme Court Docket No. 97-1396		
Date	Doc. No.	Description
11/25/96	211	"ANSWER by defendant Monterey County to complaint [208-1] [5:91-cv-20559] (cv) [Entry date 11/26/96]"
11/25/96	212	"NOTICE OF MOTION AND MOTION by Intervenor-Defendant California, State of to dismiss 1st amended complaint [5:91-cv-20559] (cv) [Entry date 11/26/96]"
11/25/96	213	"MEMORANDUM by Intervenor-Defendant California, State of in support of motion to dismiss 1st amended complaint [212-1] [5:91-cv-20559] (cv) [Entry date 11/26/96]"
11/26/96	214	"ANSWER intervention to Amended complaint [208-1] [5:91-cv-20559] (cv)"
12/4/96	215	"INTERVENOR'S COMPLAINT by Intervenor Stephen A. Sillman [5:91-cv-20559] (cv) [Entry date 12/06/96]"
1/9/97	218	"CERTIFIED COPY of USCA <sup>3</sup> Order: reversing and remanding the Decision of the District Court [Appeal [189-1] [5:91-cv-20559] (cv)"

<sup>3</sup> Docket Entry No. 218 erroneously attributes a Supreme Court Order to the "USCA." The correct designation should be United States Supreme Court.

## Joint Appendix - 4

Relevant Docket Entries for <i>Lopez, et al. v. Monterey County, et al.</i> , Supreme Court Docket No. 97-1396		
Date	Doc. No.	Description
1/9/97	219	"CLERK'S letter spreading the mandate to counsel re appeal [189-1] [5:91-cv-20559] (cv)"
1/13/97	220	"NOTICE OF MOTION AND MOTION by Intervenor-Defendant California, State of to vacate order extending terms with Notice set for 2/20/97 at 11:00 [5:91-cv-20559] (cv)"
1/13/97	221	"MEMORANDUM by Intervenor-Defendant California, State of in support of motion to vacate order extending terms [220-1] [5:91-cv-20559] (cv)"
1/13/97	222	"DECLARATION by D.. G. Stone on behalf of Intervenor-Defendant California, State of re motion to vacate order extending terms [220-1] [5:91-cv-20559] (cv)"
1/22/97	224	"NOTICE OF MOTION AND MOTION by Intervenor Stephen A. Sillman, Intervenor Stephen A. Sillman for order to substitute party [5:91-cv-20559] (cv) [Entry date 01/23/97]"
1/22/97	225	"DECLARATION by Judge Wendy Duffy on behalf of Intervenor Stephen A. Sillman re motion for order to substitute party [224-1] [5:91-cv-20559] (cv) [Entry date 01/23/97]"

## Joint Appendix - 5

Relevant Docket Entries for <i>Lopez, et al. v. Monterey County, et al.</i> , Supreme Court Docket No. 97-1396		
Date	Doc. No.	Description
1/22/97	226	"PROOF OF SERVICE by Intervenor Stephen A. Sillman of motion for order to substitute party [224-1] [5:91-cv-20559] (cv) [Entry date 01/23/97]"
1/23/97	227	"STIPULATION and ORDER by Judge Ronald M. Whyte: granting motion for order to substitute party [224-1] (cc: all counsel) [5:91-cv-20559] (cv) [Entry date 01/24/97]"
1/30/97	228	"MEMORANDUM by Plaintiff David Serena, Plaintiff Jesse G. Sanchez, Plaintiff William A. Melendez, Plaintiff Crescencio Padilla, Plaintiff Vicky M. Lopez in opposition to motion to vacate order extending terms [220-1] [5:91-cv-20559] (cv)"
1/30/97	229	"MEMORANDUM by Plaintiff David Serena, Plaintiff Jesse G. Sanchez, Plaintiff William A. Melendez, Plaintiff Crescencio Padilla, Plaintiff Vicky M. Lopez in opposition to motion to dismiss 1st amended complaint [212-1] [5:91-cv-20559] (cv)"
1/30/97	230	"OPPOSITION by Intervenor Wendy Duffy to motion to vacate order extending terms [220-1] [5:91-cv-20559] (cv)"

## Joint Appendix - 6

Relevant Docket Entries for <i>Lopez, et al. v. Monterey County, et al.</i> , Supreme Court Docket No. 97-1396		
Date	Doc. No.	Description
1/30/97	231	"DECLARATION by W. Duffy on behalf of Intervenor Wendy Duffy re opposition [230-1] [5:91-cv-20559] (cv)"
1/30/97	232	"BRIEF FILED the US regarding motion to dismiss 1st amended complaint [212-1] [5:91-cv-20559] (cv)"
2/6/97	237	"REPLY by Intervenor-Defendant California, State of re opposition memorandum [229-1] [5:91-cv-20559] (cv)"
2/6/97	238	"REPLY by Intervenor-Defendant California, State of re opposition [230-1] [5:91-cv-20559] (cv)"
2/11/97	239	"REPLY by Intervenor-Defendant California, State of to US Amicus Brief re: motion to dismiss [5:91-cv-20559] (cv)"
2/20/97	241	"MINUTES: (C/R I. Rodriguez) that the motion to vacate order extending terms [220-1] is submitted, that the motion to dismiss 1st amended complaint [212-1] is submitted [5:91-cv-20559] (cv) [Entry date 03/13/97]"
4/2/97	248	"LETTER dated 4/2/97 from Joaquin G. Avila re: a recent decision by the US Supreme Court [5:91-cv-20559] (cv) [Entry date 04/03/97]"

## Joint Appendix - 7

Relevant Docket Entries for <i>Lopez, et al. v. Monterey County, et al.</i> , Supreme Court Docket No. 97-1396		
Date	Doc. No.	Description
4/3/97	249	"LETTER dated 4/2/97 from Daniel G. Stone re: Opinion of the US Supreme Court [5:91-cv-20559] (cv)"
4/11/97	252	"NOTICE of recent supreme court decision and response to State's 4/2/97 letter to court. <sup>4</sup> [5:91-cv-20559] (cv)"
4/22/97	253	"REPORTER'S TRANSCRIPT; Date of proceedings: 2/20/97 (C/R: I. L. Rodriguez) [5:91-cv-20559] (cv) [Entry date 04/24/97]"
5/16/97	263	"LETTER dated 5/15/97 from Daniel G. Stone re: new opinion of the US Supreme Court [5:91-cv-20559] (cv)"
7/15/97	272	"LETTER dated 7/14/97 from Daniel G. Stone re: new opinion of the USCA [5:91-cv-20559] (cv)"
8/6/97	274	"LETTER dated 8/6/97 from Joaquin G. Avila re: Supreme Court's decision on another case. [5:91-cv-20559] (cv)"
8/20/97	275	"LETTER dated 8/19/97 from Daniel G. Stone re: letter of 8/6/97 [5:91-cv-20559] (cv)"

<sup>4</sup> Docket Entry No. 252 erroneously omits attribution. The correct designation should reflect that the Notice was "by amicus USDOJ."

Relevant Docket Entries for <i>Lopez, et al. v. Monterey County, et al.</i> , Supreme Court Docket No. 97-1396		
Date	Doc. No.	Description
11/17/97	276	"ORDER by Judge Ronald M. Whyte setting hearing on motion to vacate order extending terms [220-1] 2:00 12/16/97, setting hearing on motion to dismiss 1st amended complaint [212-1] 2:00 12/16/97 (Date Entered: 11/18/97) (cc: all counsel) [5:91-cv-20559] (cv) [Entry date 11/18/97]"
11/17/97	277	"ORDER by Judge Ronald M. Whyte granting motion to dismiss 1st amended complaint [212-1] (Date Entered: 11/18/97) (cc: all counsel) [5:91-cv-20559] (cv) [Entry date 11/18/97]"
12/2/97	278	"LETTER dated 11/24/97 from Daniel G. Stone re: opinion of the US Supreme Court. [5:91-cv-20559] (cv) [Entry date 12/03/97]"
12/9/97	279	"BRIEF FILED <sup>5</sup> regarding order [277-1] [5:91-cv-20559] (cv) [Entry date 12/10/97]"

<sup>5</sup> Docket Entry No. 279 omits attribution. The correct designation should reflect that the Brief was "by amicus USDOJ".

Relevant Docket Entries for <i>Lopez, et al. v. Monterey County, et al.</i> , Supreme Court Docket No. 97-1396		
Date	Doc. No.	Description
12/9/97	280	"MOTION for leave to file response brief to 11/17/97 tentative order. <sup>6</sup> [5:91-cv-20559] (cv) [Entry date 12/10/97]"
12/12/97	281	"LETTER dated 12/10/97 from Daniel G. Stone re: State of California opposes the request of Amicus Curiae US re: a supplemental brief in opposition to the State 11/25/96 motion to dismiss. [5:91-cv-20559] (cv)"
12/15/97	282	"LETTER dated 12/12/97 from Douglas Holland re: Monterey County does not object to the filing of the US Motion to file a response brief. [5:91-cv-20559] (cv) [Entry date 12/16/97]"
12/16/97	283	"NOTICE by Plaintiff Vicky M. Lopez of section 5 preclearance status of relevant state statutes [5:91-cv-20559] (cv)"

<sup>6</sup> Docket Entry No. 280 omits attribution. The correct designation should reflect that the Motion was "by amicus USDOJ".

Relevant Docket Entries for <i>Lopez, et al. v. Monterey County, et al.</i> , Supreme Court Docket No. 97-1396		
Date	Doc. No.	Description
12/16/97	284	"DECLARATION by G. Schneider on behalf of Intervenor-Defendant California, State of acting deputy chief voting section <sup>7</sup> [5:91-cv-20559] (cv)"
12/16/97	285	"MINUTES: (C/R Lee-Anne Shortridge) (Hearing Date: 12/16/97) that the motion to dismiss 1st amended complaint [212-1] is submitted [5:91-cv-20559] (cv) [Entry date 12/19/97]"
12/19/97	286	"ORDER by Judge Ronald M. Whyte granting motion to dismiss 1st amended complaint [212-1], denying motion to stay pending application to the Supreme Court. The Court declines to enter a stay as that would affect the County's ability to comply with the filing periods for the direct primary to be held on 6.2.98. dismissing case; appeal filing ddl 2/20/98 (Date Entered: 12/22/97) (cc: all counsel) [5:91-cv-20559] (cv) [Entry date 12/22/97]"

Relevant Docket Entries for <i>Lopez, et al. v. Monterey County, et al.</i> , Supreme Court Docket No. 97-1396		
Date	Doc. No.	Description
12/19/97	287	"JUDGMENT: by Judge Ronald M. Whyte dismissing case; and Judgment is entered against plaintiffs and in favor of dfts State of California and County of Monterey. appeal filing ddl 1/21/98 (Date Entered: 12/22/97) (cc: all counsel) [5:91-cv-20559] (cv) [Entry date 12/22/97]"
12/24/97	288	"NOTICE OF APPEAL by Plaintiff from Dist. Court decision order [286-2] Fee status pd, #504158 [5:91-cv-20559] (cm) [Entry date 12/29/97]"
12/30/97	289	"REPORTER'S TRANSCRIPT; Date of proceedings: 12/16/97 (C/R: Lee-Anne Shortridge) [5:91-cv-20559] (cv)"
2/4/98	294	"LETTER dated 1/23/98 from the Supreme Court re: application for stay. [5:91-cv-20559] (cv)"
3/6/98	--	"NOTIFICATION by The Supreme Court of the US Office of the Clerk Appellate Docket Number 97-1396 [5:91-cv-20559] (cv)"

<sup>7</sup> Docket Entry No. 284 erroneously attributes a Declaration to the State. The correct designation should reflect that it was "submitted on behalf of amicus USDOJ."